

(1) Correct or require a county committee to correct any action taken by such FSA county committee that is not in accordance with this part; and

(2) Require a county committee to withhold taking or reverse any action that is not in accordance with this part.

(d) No delegation in this part to a State or county committee shall prevent the Deputy Administrator from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee.

(e) The Deputy Administrator may authorize State and county committees to waive or modify non-statutory deadlines or other program requirements in cases where lateness or failure to meet such does not adversely affect the operation of the program.

§ 1479.102 Definitions.

The definitions in this section apply to all determinations made under this part. The terms defined in part 718 of this title and parts 1400 and 1437 of this chapter shall also be applicable, except where those definitions conflict with the definitions set forth in this section. The definitions follow:

Actual production means the total quantity of the crop appraised, harvested or that could have been harvested, as determined by the FSA State or county committee in accordance with instructions issued by the Deputy Administrator.

Additional coverage means a plan of insurance established by FCIC that provides coverage comparable to a level for a single crop that is equal to at least 65 percent of the approved yield indemnified at 100 percent of the expected market price.

Administrative fee means an amount the producer must pay for Noninsured Crop Disaster Assistance Program (NAP) enrollment for non-insurable crops.

Appraised production means production determined by FSA, or a company reinsured by the Federal Crop Insurance Corporation (FCIC), that was unharvested but that was determined to reflect the crop's yield potential at the time of appraisal.

Approved yield means the amount of production per acre, computed in accordance with FCIC's Actual Production History Program at 7 CFR part 400, subpart G or, for crops not included under 7 CFR part 400, subpart G, the yield used to determine the guarantee. For crops covered under NAP, the approved yield is established according to part 1437 of this chapter. Only the approved yields based on production evidence submitted to FSA prior to the enactment of Pub. L. 108–324 will be used for purposes of the 2003, 2004, or 2005 CDP. Other yields may be assigned when an eligible approved yield is not available.

Aquaculture means the reproduction and rearing of aquatic species in controlled or selected environments including, but not limited to, ocean ranching, except private ocean ranching of Pacific salmon for profit in those States where such ranching is prohibited by law.

Aquaculture facility means any land or structure including, but not limited to, a laboratory, hatchery, rearing pond, raceway, pen, incubator, or other equipment used in aquaculture.

Aquaculture species means any aquaculture species as defined in part 1437 of this chapter.

Average market price means the price or dollar equivalent on an appropriate basis for an eligible crop established by CCC for determining payment amounts. Such price will be based on the harvest basis without the inclusion of transportation, storage, processing, packing, marketing, or other post-harvesting expenses and will be based on historical data.

Catastrophic risk protection means the minimum level of coverage offered by FCIC.

CCC means the Commodity Credit Corporation.

Control county means, for a producer with farming interests in only one county, the FSA county office in which the producer's farm is administratively located or, for a producer with farming interests that are administratively located in more than one county, the FSA county office designated by FSA to control the payments received by the producer.

County committee means the FSA county committee.

Crop insurance means an insurance policy reinsured by FCIC under the provisions of the Federal Crop Insurance Act, as amended.

Crop year means:

(1) For insured and uninsured crops, the crop year as defined according to the applicable crop insurance policy;

(2) For non-insurable crops, the year harvest normally begins for the crop;

(3) For all aquaculture species and nursery crops, the period from October 1 through the following September 30; and

(4) For honey, the period running from January 1 through the following December 31.

Disaster means damaging weather, including drought, excessive moisture, hail, freeze, tornado, hurricane, typhoon, excessive wind, excessive heat, weather-related saltwater intrusion, weather-related irrigation water rationing, and earthquake and volcanic eruptions, or any combination thereof. Disaster includes a related condition that occurs as a result of the damaging weather and exacerbates the condition of the crop, such as disease and insect infestation.

Eligible crop means a crop (except sugarcane) insured by FCIC as defined in part 400 of this title, or included under NAP as defined under part 1437 of this chapter. Losses of livestock and livestock related losses are not compensable under this part, but may be compensable under part 1439 of this chapter to the extent provided for in that part.

End use means the purpose for which the harvested crop is used, such as grain, hay, or seed.

Expected market price (price election) means the price per unit of production (or other basis as determined by FCIC) anticipated during the period the insured crop normally is marketed by producers. This price will be set by FCIC before the sales closing date for the crop. The expected market price may be less than the actual price paid by buyers if such price typically includes remuneration for significant amounts of post-production expenses such as conditioning, culling, sorting, packing, etc.

Expected production means, for an agricultural unit, the historic yield multiplied by the number of planted or prevented acres of the crop for the unit.

FCIC means the Federal Crop Insurance Corporation, a wholly owned Government Corporation within USDA.

Final planting date means the date established by the Risk Management Agency (RMA) for insured and uninsured crops by which the crop must be initially planted in order to be insured for the full production guarantee or amount of insurance per acre. For non-insurable crops, the final planting date is the end of the planting period for the crop as determined by CCC.

Flood prevention means:

(1) For aquaculture species, placing the aquaculture facility in an area not prone to flood; and

(2) For raceways, providing devices or structures designed for the control of water level; and with respect to nursery crops, placing containerized stock in a raised area above expected flood level and providing draining facilities, such as drainage ditches or tile, gravel, cinder, or sand base.

FSA means the Farm Service Agency.

Good nursery growing practices means utilizing flood prevention, growing media, fertilization to obtain expected production results, irrigation, insect and disease control, weed, rodent and wildlife control, and over winterization storage facilities.

Growing media means:

(1) For aquacultural species, media that provides nutrients necessary for the production of the aquacultural species and protects the aquacultural species from harmful species or chemicals;

(2) For nursery crops, media designed to prevent "root rot" and other media related problems through a well-drained media with a minimum 20 percent air pore space and pH adjustment for the type of plant produced.

Harvested means:

(1) For insured and uninsured crops, *harvested* as defined according to the applicable crop insurance policy;

(2) For non-insurable single harvest crops, that a crop has been removed from the field, either by hand or mechanically, or by grazing of livestock;

(3) For non-insurable crops with potential multiple harvests in 1 year or

harvested over multiple years, that the producer has, by hand or mechanically, removed at least one mature crop from the field during the crop year:

(4) For mechanically-harvested non-insurable crops, that the crop has been removed from the field and placed in a truck or other conveyance, except hay is considered harvested when in the bale, whether removed from the field or not. Grazed land will not be considered harvested for the purpose of determining an unharvested or prevented planting payment factor.

Historic yield means, for a unit, the higher of the county average yield or the producer's approved yield.

(1) An insured participant's yield shall be the higher of the county average yield listed on the crop table or the approved federal crop insurance APH, for the disaster year.

(2) NAP participant's yield shall be the higher of the county average yield as listed on the crop table or approved NAP APH for the disaster year.

(3) Participants without federal crop insurance or NAP coverage for the disaster year shall be assigned the county average listed on the crop table.

Insurance is available means when crop information is contained in RMA's county actuarial documents for a particular crop and a policy can be obtained through the RMA system, except, if the Group Risk Plan or Adjusted Gross Revenue Plan of crop insurance was the only plan of insurance available for the crop in the county in the applicable crop year, insurance is considered not available for that crop.

Insured crops means those crops covered by crop insurance pursuant to Chapter IV of this title and for which the producer purchased either the catastrophic or buy-up level of crop insurance so available.

Limited coverage means plans of insurance established by FCIC that provides coverage comparable to a level for a single crop that is equal to or greater than 50 percent of the approved yield indemnified at 100 percent of the expected market price, but less than 65 percent of the approved yield indemnified at 100 percent of the expected market price.

Maximum loss level means the maximum level of crop loss to be applied to

a producer without acceptable production records. Loss levels are expressed in either a percent of loss or yield per acre, and should reflect the amount of production that a producer should have made considering the eligible disaster conditions in the area or county, as determined by the county committee in accordance with instructions issued by the Deputy Administrator.

Multi-use crop means a crop intended for more than one end use during the calendar year such as grass harvested for seed, hay, and grazing.

Multiple cropping means the planting of two or more different crops on the same acreage for harvest within the same crop year.

Multiple planting means the planting for harvest of the same crop in more than one planting period in a crop year on different acreage.

NASS means the National Agricultural Statistics Service.

Net crop insurance indemnity means the indemnity minus the producer paid premium.

Non-insurable crop means a crop for which FCIC crop insurance was not available.

Normal mortality means the percentage of dead aquaculture species that would normally occur during the crop year.

Person means person as defined in part 1400 of this chapter, and all rules with respect to the determination of a person found in that part shall be applicable to this part. However, the determinations made in this part in accordance with 7 CFR part 1400, subpart B, Person Determinations, shall also take into account any affiliation with any entity in which an individual or entity has an interest, irrespective of whether or not such entities are considered to be engaged in farming.

Planted acreage means land in which seed, plants, or trees have been placed, appropriate for the crop and planting method, at a correct depth, into a seed bed that has been properly prepared for the planting method and production practice normal to the area as determined by the county committee.

Prevented planting means the inability to plant an eligible crop with proper equipment during the planting period as a result of an eligible cause of

loss, as determined by CCC, according to §1479.115.

Production means quantity of the crop or commodity produced expressed in a specific unit of measure such as bushels, pounds, etc.

Rate means price per unit of the crop or commodity.

Related condition means, with respect to a disaster, a condition that causes deterioration of a crop, such as insect infestation, plant disease, or aflatoxin, that is accelerated or exacerbated as a result of damaging weather, as determined in accordance with instructions issued by the Deputy Administrator.

Reliable production records means evidence provided by the producer that is used to substantiate the amount of production reported when verifiable records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, invoices for custom harvesting, and records to verify production costs, contemporaneous measurements, truck scale tickets, and contemporaneous diaries that are determined acceptable by the county committee.

Repeat crop means with respect to a producer's production, a commodity that is planted or prevented from being planted in more than one planting period on the same acreage in the same crop year.

RMA means the Risk Management Agency.

Salvage value means the dollar amount or equivalent for the quantity of the commodity that cannot be marketed or sold in any recognized market for the crop.

Secondary use means the harvesting of a crop for a use other than the intended use, except for crops with intended use of grain, but harvested as silage, ensilage, cobbage, hay, cracked, rolled, or crimped.

Secondary use value means the value determined by multiplying the quantity of secondary use times the CCC-established price for this use.

State committee means the FSA State committee.

Uninsured crop means a crop for which Federal crop insurance was available, but the producer did not purchase insurance.

Unit means, unless otherwise determined by the Deputy Administrator, *basic unit* as described in part 457 of this title that, for ornamental nursery production, shall include all eligible plant species and sizes.

Unit of measure means:

(1) For all insured and uninsured crops, the FCIC-established unit of measure;

(2) For all non-insurable crops, the established unit of measure, if available, used for the 2003, 2004, or 2005 Noninsured Crop Assistance Program price and yield;

(3) For aquaculture species, a standard unit of measure such as gallons, pounds, inches or pieces, established by the State committee for all aquaculture species or varieties;

(4) For turf-grass sod, a square yard;

(5) For maple sap, a gallon; and

(6) For all other crops, the smallest unit of measure that lends itself to the greatest level of accuracy with minimal use of fractions, as determined by the State committee.

United States means all 50 States of the United States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, and to the extent the Deputy Administrator determines it to be feasible and appropriate, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands and the former Trust Territory of the Pacific Islands, which include Palau, Federated States of Micronesia and the Marshall Islands.

USDA means United States Department of Agriculture.

Value-loss crop has the meaning assigned in part 1437 of this chapter.

Verifiable production record means evidence that is used to substantiate the amount of production reported and that can be verified by CCC through an independent source.

Yield means unit of production, measured in bushels, pounds, etc., per area of consideration, usually measured in acres.

§ 1479.103 Producer eligibility.

(a) Producers in the United States will be eligible to receive disaster benefits under this part only if they have suffered losses of eligible crops in 2003, 2004, or 2005, as further specified in this